

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SHAW FAMILY ARCHIVES, LTD., EDITH :
MARCUS and META STEVENS, :
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: :
Plaintiffs, : Index No. 05 CV 3939 (CM)
: :
-against- : Hon. Colleen McMahon
: :
: :
CMG WORLDWIDE, INC., an Indiana Corporation:
and MARILYN MONROE, LLC, a Delaware :
Limited Liability Company, :
: :
Defendants. :
: :
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DECLARATION OF DAVID M. MARCUS

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

I, DAVID MARCUS, an attorney duly licensed to practice law before this Court, declare the following facts under penalty of perjury:

1. I represent Shaw Family Archives, Ltd., Edith Marcus, Meta Stevens and Bradford Licensing Associates (collectively referred to as the "Shaw Family") in the above-captioned matter and am fully familiar with the facts set forth herein. I respectfully submit this declaration on behalf of the Shaw Family in support of their position that Marilyn Monroe was domiciled in New York and in their Motion for Summary Judgment in support of Count 9 of their complaint.

2. Attached hereto as Exhibit 1 is a true and correct copy of Marilyn Monroe's will executed on January 14, 1961. MM 0000381-383

3. Attached hereto as Exhibit 2 is a true and correct certified copy of the Petition for Letters of Administration by Inez Melson filed in the California Superior Court, County of Los Angeles, dated August 9, 1962, together with nomination by executor elect Aaron Frosch, dated August 9, 1962. SFA 1 0260-264, 219-220.

4. Attached hereto as Exhibit 3 is a true and correct certified copy of the Order Appointing Special Administratrix of the California Superior Court, County of Los Angeles, dated August 10, 1962. SFA 1 0258-259

5. Attached hereto as Exhibit 4 is a true and correct copy of the first page of the Notice of Probate of Marilyn Monroe's will in New York Surrogate's Court, dated October 26, 1962.

6. Attached hereto as Exhibit 5 is a true and correct copy of a Decree Admitting Marilyn Monroe's will to probate in New York Surrogate's Court dated October 30, 1962. MM 0009385-9389

7. Attached hereto as Exhibit 6 is a true and correct certified copy of a Petition for Probate of Foreign Will and for Ancillary Letters Testamentary dated December 17, 1962. SFA1 0221-230

8. Attached hereto as Exhibit 7 is a true and correct certified copy of the California Superior Court's Order admitting Marilyn Monroe's foreign will to probate and granting ancillary letters testamentary to Aaron Frosch, dated January 21, 1963. SFA1 0231-233

9. Attached hereto as Exhibit 8 is a true and correct certified copy of Letters Testamentary issued by the California Superior Court to Aaron Frosch, dated February 26, 1963. SFA1 0254-255

10. Attached hereto as Exhibit 9 is a true and correct certified copy an Inventory and Appraisement filed with the California Superior Court together with Inventory and Statement of Assets, dated April 11, 1963. SFA1 0234-237

11. Attached hereto as Exhibit 10 is a true and correct copy a letter from Hermione Brown to Aaron Frosch, dated April 24 1964. MMLLC (SHAW) 000465-469

12. Attached hereto as Exhibit 11 is a true and correct copy of a petition for appraiser and designation of the estate of Marilyn Monroe in New York Surrogate's Court, dated July 27, 1964.

13. Attached hereto as Exhibit 12 is a true and correct copy of the gross estate tax document filed with the Transfer and Estate Tax Department of Taxation and Finance on August 9, 1964. MM0000367-374, 384-385

14. Attached hereto as Exhibit 13 is a true and correct copy of the Inheritance Tax Affidavit of Aaron Frosch, dated June 28, 1965. MM 0012402-12417

15. Attached hereto as Exhibit 14 is a true and correct copy of a memo from Aaron Frosch to Elliot Lefkowitz, dated July 19, 1965. MM 0051631

16. Attached hereto as Exhibit 15 is a true and correct copy of a memo from Elliot Lefkowitz to Aaron Frosch, dated November 3, 1965. MM 0057018-57019

17. Attached hereto as Exhibit 16 is a true and correct copy of a letter from Hermione Brown to James Hall, the Inheritance Tax Appraiser, dated March 4, 1966, together with the affidavits of May Reis, dated January 11, 1966, Hattie Stephenson Amos, dated January 26, 1966, Ralph Roberts dated January 31, 1966, Patricia Newcomb dated January 24, 1966 and Aaron Frosch dated June 30, 1965. MM 0009297-9298, 9350-9360.

18. Attached hereto as Exhibit 17 is a true and correct certified copy of the Notice of Filing of Report of the Inheritance Tax Appraiser, dated April 28, 2007, with the Report of the Inheritance Tax Appraiser, dated April 5, 1967.

19. Attached hereto as Exhibit 18 is a true and correct certified copy of the order fixing the estate of Marilyn Monroe's inheritance tax in California, dated May 9, 1967.

20. Attached hereto as Exhibit 19 is a true and correct copy of a notice of motion, dated June 24 1969, and verified petition of Aaron Frosch, dated May 29, 1969. MM 0000391-400

21. Attached hereto as Exhibit 20 is a true and correct copy of the appraisal of the estate of Marilyn Monroe by Milton Eletz, dated December 30, 1969. MM 0004814, 4846, 4785

22. Attached hereto as Exhibit 21 is a true and correct copy of the New York Surrogate's Order fixing the tax on the estate of Marilyn Monroe, dated January 20, 1970. MM 0000001

23. Attached hereto as Exhibit 22 is a true and correct copy of Aaron Frosch's appeal of the California tax assessments against the estate of Marilyn Monroe, dated December 7, 1972. MM 0009211-9252

24. Attached hereto as Exhibit 23 is a true and correct copy of an Opinion from the California Board of Equalization in the matter of the estate of Marilyn Monroe, dated April 22, 1975. MM 0000087-98

25. Attached hereto as Exhibit 24 is a true and correct certified copy of a petition, filed in the California Superior Court, for an order approving compromise, dated December 30, 1975. SFA1 0238-0250

26. Attached hereto as Exhibit 25 is a true and correct certified copy of the Order, of the California Superior Court, approving compromise, dated February 5, 1976. SFA1 0251-253

27. Attached hereto as Exhibit 26 is a true and correct certified copy of the Notice of Hearing, dated May 25, 1976, and First and Final Account of the Ancillary Executor, with exhibits, dated April 29, 1976. SFA1 0155-212

28. Attached hereto as Exhibit 27 is a true and correct certified copy of an Order from the Superior Court of California settling first and final accounting, dated July 15, 1976. SFA 1 0132-136

29. Attached hereto as Exhibit 28 is a true and correct copy of a receipt signed by Aaron Frosch, as domiciliary executor of the estate of Marilyn Monroe, dated July 22, 1976. SFA 00675-676

30. Attached hereto as Exhibit 29 is a true and correct copy of a receipt signed by Aaron Frosch, as ancillary executor of the estate of Marilyn Monroe, dated July 22, 1976. SFA 00658

31. Attached hereto as Exhibit 30 is a true and correct copy of an Order of the California Surrogate's Court discharging Aaron Frosch as ancillary executor, dated January 21, 1977.

32. Attached hereto as Exhibit 31 is a true and correct copy of the petition of Aaron Frosch for an accounting in the estate of Marilyn Monroe, dated August 14, 1980.

MM 0004478-0487

33. Attached hereto as Exhibit 32 is a true and correct copy of the objection of Dr. Marianne Kris to the petition of Aaron Frosch, dated October 8, 1980. MM 0004668-4688

34. Attached hereto as Exhibit 33 is a true and correct copy of Anna Strasberg's petition for Letters of Administration, dated July 7, 1989. MM 0000025-27

35. Attached hereto as Exhibit 34 is a true and correct copy of the Decree granting Anna Strasberg letters of administration with the will annexed, dated July 20, 1989. MM 0000423-424

36. Attached hereto as Exhibit 35 is a true and correct copy of a Verified Petition of Anna Strasberg, by Order to Show Cause, dated July 28, 1989. MM 0000241-242, 0004364-4372

37. Attached hereto as Exhibit 36 is a true and correct copy of the Answer of the Anna Freud Centre and Memorandum of Law of the Anna Freud Centre, dated November 20, 1989. MM 0007335-7341, MM 0004443-4464

38. Attached hereto as Exhibit 37 is a true and correct copy of Anna Strasberg's Memorandum in support of her petition for a construction of the last will of Marilyn Monroe, dated November 27, 1989. MM 0007357-7367

39. Attached hereto as Exhibit 38 is a true and correct copy of a letter from Roger Richman to Irving Seidman, Esq., dated February 27, 1990. MM 00044375-44376

40. Attached hereto as Exhibit 39 is a true and correct copy of an undated order and a Decree construing Marilyn Monroe's will, dated April 30, 1990. MM 0005583-5588, MM 0005157-5164

41. Attached hereto as Exhibit 40 is a true and correct certified copy of the Complaint of Nancy Miracle filed in the United States District Court in the District of Hawaii, dated September 16, 1992. SFA1 0001-0009.

42. Attached hereto as Exhibit 41 is a true and correct certified copy of Anna Strasberg's Notice of Hearing of her motion to dismiss Nancy Miracle's complaint, dated November 9, 1992.

43. Attached hereto as Exhibit 42 is a true and correct certified copy of an Affidavit of domicile of JohnAaron Murphy Jones, dated November 20, 1992. SFA1 0029-31

44. Attached hereto as Exhibit 43 is a true and correct certified copy of Nancy Miracle's motion to shorten time to hear her motion to continue Anna Strasberg's motion to dismiss, dated November 23, 1992.

45. Attached hereto as Exhibit 44 is a true and correct certified copy of Anna Strasberg's Memorandum in Opposition to Nancy Miracle's motion to continue, dated November 24, 1992.

46. Attached hereto as Exhibit 45 is a true and correct certified copy of a transcript from a hearing on November 24, 1992, in the matter of Miracle v. Strasberg in the United States District Court for the District of Hawaii.

47. Attached hereto as Exhibit 46 is a true and correct certified copy of Nancy Miracle's First Amended Complaint, dated November 27, 1992.

48. Attached hereto as Exhibit 47 is a true and correct certified copy of Nancy Miracle's memorandum of law in opposition to Anna Strasberg's motion to dismiss, dated November 30, 1992.

49. Attached hereto as Exhibit 48 is a true and correct certified copy of a transcript from a hearing on December 14, 1992, in the matter of Miracle v. Strasberg in the United States District Court for the District of Hawaii. SFA1 0047-76

50. Attached hereto as Exhibit 49 is a true and correct certified copy of an Order from the United States District Court for the District of Hawaii, dated December 23, 1992.

51. Attached hereto as Exhibit 50 is a true and correct certified copy of Nancy Miracle's Motion to reconsider the order dismissing her complaint, dated January 4, 1993.

52. Attached hereto as Exhibit 51 is a true and correct certified copy of Anna Strasberg's memorandum in opposition to Nancy Miracle's motion to reconsider, dated January 12, 1993.

53. Attached hereto as Exhibit 52 is a true and correct certified copy of Nancy Miracle's Notice of Appeal, dated January 13, 1993.

54. Attached hereto as Exhibit 53 is a true and correct certified copy of an Order from the United States District Court for the District of Hawaii, dated January 25, 1993.

55. Attached hereto as Exhibit 54 is a true and correct certified copy of Nancy Miracle's opening brief filed in the Ninth Circuit, dated May 14, 1993.

56. Attached hereto as Exhibit 55 is a true and correct certified copy of the Order of the Ninth Circuit dated June 11, 1993.

57. Attached hereto as Exhibit 56 is a true and correct copy of a letter from Peter Eichler to Roger Richman, dated July 7, 1993, enclosing a letter from Martin Bressler to Lawrence Shaw, dated June 11, 1993. MM 0003905-3909

58. Attached hereto as Exhibit 57 is a true and correct copy of a letter from Mark Roesler, to Anna Strasberg, dated May 2, 1995, with attached business proposal. MM 0013310-13319. Later in 1995, Ms. Strasberg signed an agreement making CMG Worldwide, Inc., the exclusive agent for the Estate of Marilyn Monroe.

59. Attached hereto as Exhibit 58 is a true and correct copy of a letter from Jonathan D. Reichman, Esq., of Kenyon & Kenyon, to Christine M. Sovich, Esq., of CMG Worldwide, Inc., dated March 28, 1996. MM 0019959-19962. Defendant CMG Worldwide, Inc. did not take any action against Kenyon & Kenyon's client.

60. Attached hereto as Exhibit 59 is a true and correct copy of a letter from Shari Leinwand, of Gibson, Dunn & Crutcher to Steven B. Rosenfeld, of Paul, Weiss, Rifkind, Wharton & Garrison, dated May 8, 2000. MM 0003743-3744

61. Attached hereto as Exhibit 60 is a true and correct copy of the petition for judicial settlement of final account of Anna Strasberg as Administratrix of the estate of Marilyn Monroe, dated October 18, 2000. MM 0002789-2799

62. Attached hereto as Exhibit 61 is a true and correct copy of a receipt and release signed by Anna Strasberg, dated October 18, 2000. MM 0002843-2844

63. Attached hereto as Exhibit 62 is a true and correct copy of a waiver of citation and consent by the Anna Freud Centre, dated November 15, 2000. MM 0003482-3483

64. Attached hereto as Exhibit 63 is a true and correct copy of a Decree from the Surrogate's Court of New York, County of New York, dated June 20, 2001. MM 0003458-3461

65. Attached hereto as Exhibit 64 is a true and correct copy of a receipt and release signed by Anna Strasberg, dated July 26, 2001. MM 0003475-3476

66. Attached hereto as Exhibit 65 is a true and correct copy of excerpts from the deposition of David Strasberg, taken on December 20, 2007.

67. Attached hereto as Exhibit 66 is a true and correct copy of excerpts from the deposition of Mark Roesler, taken on December 26, 2007.

68. Attached hereto as Exhibit 67 is a true and correct copy of excerpts from the deposition of Anna Strasberg, taken on January 4, 2008.

69. Attached hereto as Exhibit 68 is a true and correct copy of current California Probate Code § 12501 (Stats.1990, c. 79 (A.B.759), § 14, operative July 1, 1991.)

70. Attached hereto as Exhibit 69 is a true and correct copy of current California Probate Code § 360 (Stats.1990, c. 79 (A.B.759), § 14, operative July 1, 1991.)

71. Attached hereto as Exhibit 70 is a true and correct copy of former California Probate Code § 301, with annotations (Stats.1931, C. 281, p. 600, § 301.)

72. Attached hereto as Exhibit 71 is a true and correct copy of former California Probate Code § 302 (Stats.1931. c. 281, p. 600, § 302.).

73. Attached hereto as Exhibit 72 is a true and correct copy of former California Probate Code § 360 (Stats.1931, c. 281, p. 604, § 360, as amended Stats.1953, c. 418, p.1668, § 1).

74. Attached hereto as Exhibit 73 is a true and correct copy of former California Probate Code § 361 (Stats.1931, c. 281, p. 604, § 361, as amended Stats.1953, c. 418, p.1668, § 2).

75. Attached hereto as Exhibit 74 is a true and correct copy of former California Probate Code § 362 (Stats.1931, c. 281, p. 604, § 362, as amended Stats.1953, c. 418, p.1668, § 3).

76. Annexed hereto as Exhibit 75 is a true and correct copy of 24 Cal.Jur.3d Decedents' Estates, § 122 (1975).

Dated: New York, New York
February 14, 2008

LAW OFFICES OF CHRISTOPHER SERBAGI



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